Illinois-American Water Company, Southern Division *and* Office and Professional Employees International Union, Local 13, AFL–CIO. Case 14–CA–20010

January 18, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND DEVANEY

On May 10, 1990, Administrative Law Judge Lawrence W. Cullen issued the attached decision. The General[1] Counsel filed exceptions and a supporting brief and the Respondent filed a brief in reply.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order.

ORDER

The recommended Order of the administrative law judge is adopted and the complaint is dismissed.

Michael T. Jamison, Esq., for the General Counsel.
R. Michael Lowenbaum, Esq. and *Robert L. Broderick, Esq. (Thompson & Mitchell)*, of St. Louis, Missouri, for the Respondent.

DECISION

STATEMENT OF THE CASE

LAWRENCE W. CULLEN, Administrative Law Judge. This case was heard before me on July 18 and 19, 1989, in St. Louis, Missouri, pursuant to a complaint filed by the Regional Director of Region 14 of the National Labor Relations Board (the Board) on May 18, 1989. The complaint alleges violations of Section 8(a)(1) and (5) of the National Relations Act (the Act) were committed by Illinois-American Water Company, Southern Division (the Respondent) and is based on a charge filed by Office and Professional Employees International Union, Local 13, AFL–CIO (the Union) on March 29, 1989. The complaint is joined by Respondent's answer filed on June 2, 1989, which denies the commission of any violations of the Act by Respondent and asserts several specific defenses thereto.

On the entire record in this proceeding, including my observation of the demeanor of the witnesses who testified and after due consideration of the motions and responses thereto and positions asserted at the hearing and the briefs filed by the General Counsel and counsel for the Respondent, I make the following

FINDINGS OF FACT AND ANALYSIS[1]

I. THE BUSINESS AND STATUS OF RESPONDENT

The complaint alleges, the Respondent admits, and I find that Respondent is and has been at all times material an Illinois corporation with offices and places of business in Belleville, Granite City, and East St. Louis, Illinois (Southern Division facilities), and has been engaged as a public utility in the distribution and sale of water to the general public, that during the 12-month period ending April 30, 1989, Respondent, in the course of its business operations described above, derived gross revenues in excess of $250,000 and purchased

[1] In adopting the judge's dismissal of the allegation that the Respondent violated Sec. 8(a)(5) and (1) by refusing to bargain concerning the employees at its Belleville computer center, we find it unnecessary to decide whether, under the circumstances of this case, the Respondent was obligated to bargain with regard to those employees while its exceptions to the finding in Case 14–CA–18981, et al., that the computer center employees were properly included in the unit were pending before the Board. Instead, we find that the record does not support a finding that the Respondent actually refused to bargain over these employees. In this regard, the General Counsel has contended that the Union had raised bargaining over these employees several times during the course of the parties' negotiations and that, in light of Union Representative Bingaman's comments that the Respondent's proposals were designed to strengthen its position in the collateral litigation and to ''gut the unit,'' the Respondent's failure to make proposals concerning the computer center employees indicated a refusal to bargain over their conditions of employment. We disagree; we do not view Bingaman's comments as putting the Respondent on notice that the Union was seeking to bargain over these employees. A mere protest of an employer's actions or positions is not tantamount to a demand for bargaining. Cf. *American Bus Lines*, 164 NLRB 1055, 1056 (1967), citing *NLRB v. Columbia Enameling & Stamping Co*., 306 U.S. 292, 297 (1937). Instead, we find that the Union's first and only demand that the Respondent bargain over the computer center employees occurred during negotiations on March 29, 1989. When Respondent Representative Jackson responded that he wished to confer with counsel before answering Bingaman's query whether he was refusing to bargain, Bingaman ended the meeting and the negotiations. Under these circumstances, we do not regard Jackson's statement of intent to confer with counsel as a refusal to bargain, and we adopt the judge's dismissal of these allegations. Nothing in this decision, however, shall be construed as relieving the Respondent of its obligation to bargain, on demand, over terms and conditions of employment of the employees in the appropriate unit.

The General Counsel has excepted to the judge's failure to make findings as to an appropriate unit. We find merit in this exception and we find that the appropriate unit, as alleged by the General Counsel in the complaint, is that found by the Board in *Illinois-American Water Co*., 296 NLRB 715 (1989):

> All office employees employed by the Respondent at its Belleville Computer Center, and Granite City and East St. Louis district offices, EXCLUDING office employees performing group insurance and/or pension duties, other confidential employees, guards, and supervisors as defined by the Act.

The General Counsel has excepted to the admission of testimony by Respondent witnesses Jackson and Conner regarding statements purportedly made to them by unit employees that they wished to be free of the Union. It does not appear that the judge relied on this testimony; in any case, we do not rely on it.

[1] The following includes a composite of the testimony which is credited.

and received at its Southern Division facilities products, goods, and materials valued in excess of $50,000 directly from points outside the State of Illinois, and that Respondent is now, and has been at all times material, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION

The complaint alleges, Respondent admits, and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

This case essentially involves two issues. They are whether the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with the Union on behalf of its computer service center employees and whether the Respondent engaged in an overall course of unlawful surface bargaining during the February to March 1989 negotiations to replace the 1986–March 1989 labor agreement. As of the date of the hearing there had been issued a decision by National Labor Relations Board Administrative Law Judge Donald R. Holley on September 22, 1988, which was then pending before the National Labor Relations Board. In that decision Judge Holley had found that ''the Union involved herein has represented employees employed in two separate bargaining units within the Southern Division for a number of years. One unit is composed of 'clerical employees excluding management staff and supervisors. . . .' employed in the Alton District Office.'' He further found, ''The second unit is composed of 'all office employees . . . exclusive of supervisory employees and confidential employees, including those employees performing group insurance and/or pension duties . . .' employed in the Belleville, East St. Louis (Illinois), and Granite City (Illinois) district offices. The Union has represented the employees in the described unit (herein frequently referred to as the East St. Louis unit) since 1948. He further found that an organizational change took place in 1987 wherein Respondent closed its Belleville district office in early April 1987, transferred its unit employees in the Belleville office to East St. Louis, remodeled its district office to accommodate a computer center which opened on September 28, 1987, and staffed it with 11 clerical employees previously employed in the East St. Louis office and thereafter treated these employees as nonunion employees. With respect to these actions Judge Holley found that Respondent had engaged in an unlawful refusal to bargain by refusing to recognize the Union as the exclusive bargaining agent of clerical employees employed at its Belleville computer center by refusing to apply the terms of the East St. Louis bargaining agreement to such employees, as the Belleville computer employees were an accretion to the unit. He then found the following to be the appropriate unit within the meaning of Section 9(b) of the Act:

> All office employees employed by the Respondent at its Belleville computer center, and Granite City and East St. Louis district offices, EXCLUDING office employees performing group insurance and/or pension duties, other confidential employees, guards, and supervisors as defined in the Act.

Judge Holley issued his recommended Order to cease and desist from the refusal to recognize the Union as the exclusive bargaining representative of the employees in the appropriate unit, including those employed at the Belleville, Illinois computer center and refusing to apply the terms and conditions of the collective-bargaining agreement with the Union to its computer center employees and to take affirmative actions to remedy these violations by honoring the collective-bargaining agreement, and any extensions applying the terms to computer center employees who are within the appropriate bargaining unit and to make them whole for any losses sustained by Respondent's failure to apply the collective-bargaining agreement and make all fringe benefit payments and contributions required by the agreement or any extensions. Judge Holley's Decision and Order was adopted by the Board in its decision issued September 22, 1989, with a minor modification of the Order, not here relevant.

The Union and Respondent are parties to a collective-bargaining agreement dated March 1, 1986, to February 28, 1989, covering employees at Respondent's Belleville, East St. Louis, and Granite City, Illinois offices. Respondent's manager of its southern division, Robert Jackson, with responsibility for negotiating labor agreements in that division which includes the Belleville, East St. Louis, and Granite City offices received a letter on December 12, 1988, from Union Business Representative James Bingaman giving notice of the Union's intent to negotiate a new labor agreement including improvements and a request for information. The Union's letter made no mention of the computer center employees. Jackson met with his supervisors and reviewed the existing contract and developed a list of contractual proposed amendments to be presented to the Union on behalf of Respondent. These proposals were reviewed by Jackson with Respondent's vice president, Thomas M. Conner, who approved them. On January 9, 1989, Jackson responded to the information request by letter and enclosed the requested information on all employees in the East St. Louis district office and four unit employees in the corporate office in Belleville, but did not enclose any information with respect to the disputed employees in the Belleville computer center, Bingaman never contested the lack of information concerning the computer center employees and there is no allegation of a refusal to furnish information with respect to these employees. Conner testified he had not directed Jackson to negotiate on behalf of the employees and he did not believe the Union was seeking to negotiate on behalf of the computer center employees in these negotiations.

Pursuant to mutual agreement the parties initially met on February 1, 1989, and exchanged their proposals for a new labor agreement. The parties then recessed and then returned and Jackson explained Respondent's proposals to the Union representatives. Jackson explained the Respondent's proposals to delete references in the preamble of the existing agreement to certain district offices to reflect that they no longer existed. Bingaman said he would have this language reviewed by his attorney and commented that the Respondent was trying to improve its National Labor Relations Board case referring to the case in which Administrative Law Judge Holley had entered his recommended decision then pending before the Board on exceptions by Respondent. Jackson who had been newly appointed to his position and had not been

involved in the National Labor Relations Board case testified he did not know to what Bingaman was referring.

Jackson also explained Respondent's proposal to change the union recognition clause in the labor agreement to delete references to district offices as the Belleville and Granite City offices had been closed. Bingaman commented with regard to this proposal that he thought the Respondent was attempting to strengthen its position, which Jackson denied. Bingaman also stated he wanted this proposal reviewed by his attorney. Respondent also proposed the deletion of the first paragraph of the union-shop clause and its replacement with the management-rights clause which was then currently in the latter part of the agreement. Jackson told the union representatives that Respondent wanted the employees to have a choice as to whether they belonged to the Union, but that the Respondent would continue to recognize the Union as the exclusive bargaining representative. Jackson testified at the hearing that he had been approached on some occasions by employees who voiced their desire to get out of the Union. Similarly Vice President Conner testified to having received a similar request by a bargaining unit employee. With respect to the grievance procedure Respondent proposed a name change of the term ''Office Chairman'' to ''Customer Service Superintendent'' as the person to whom employees should bring their grievances to reflect the actual title of the individual designated to receive grievances. Respondent also proposed that time spent in arbitration hearings by employees should not be considered as time worked. Jackson told Bingaman that the proposed language was in other of its contracts and specifically was in the Alton contract with the OPEIU. Bingaman, a newly appointed business manager, was unaware the language was in the Alton contract. Jackson said Respondent did not want to give employees an incentive to arbitrate. Bingaman commented that this was another attempt to gut the contract. With respect to seniority, the Respondent proposed to reduce recall rights for employees laid off to 1 year or less instead of the 2 years provided in the contract. This proposal also included the elimination of certain bidding rights in conjunction with another proposal reducing the number of classifications to one, and assigning only two wage rates, thus eliminating bidding requirements. Bingaman said this was another attempt to gut the contract.

Respondent also proposed changing from ''refuses'' to ''fails'' for purpose of clarity concerning the loss of seniority rights by an employee who does not report for work for seven consecutive days. Respondent also proposed a new clause providing that vacation would not occur for periods when employees were not working as a result of a labor dispute. Jackson told Bingaman that this clause was in other of its contracts including the Alton agreement. Respondent also proposed the return of supervisors to their former bargaining unit positions in the event the supervisory position were eliminated or the employee was unsatisfactory in the supervisory position. Respondent also proposed the elimination of a reference to a hire date of August 21, 1987, in the existing labor agreement as no one was aware of the significance of this date. The Union agreed to this proposal.

With respect to sick leave the Respondent proposed limiting the number of doctor visits to two a year. Jackson told the union representatives that they believed the current unlimited number of doctor visits was being abused. Respondent also proposed that employees be required to notify their supervisor by 8 a.m. if they would be absent because of illness rather than the existing provision which permitted them to notify their supervisor within 2 hours after the start of the shift. Jackson told the union representatives that the purpose of this was to enable Respondent to adequately plan the work and that it was in other contracts including the Alton contract.

With respect to death in immediate family, the existing clause provided for employees to be granted up to 4 days off which would include Saturdays and Sundays. Respondent did not want to pay employees for Saturdays and Sundays when they would not lose any pay. The Respondent's proposal provided that holidays would be treated as included days also. Respondent also proposed adding foster children as members of the immediate family.

With respect to maternity leave Respondent proposed deleting the existing maternity leave clause which permitted a full year of leave and replacing it with a clause stating that maternity leave would conform to state and Federal law. Jackson told the union representatives that the Respondent was experiencing problems because of the length of the leave which was disrupting operations.

With respect to jury duty Respondent proposed limiting compensation for jury duty to 2 weeks. Jackson cited the Respondent's concern that an unlimited period of compensation could be too expensive as the result of possibility of lengthy trials, some lasting as long as several years. Bingaman commented he was aware of the problem. Respondent also proposed the deletion of the clause entitled ''District Rules and Regulations'' in conjunction with its proposal to move the management-rights clause to the front of the agreement.

With respect to paid holidays Respondent proposed eliminating two personal day holidays and replacing them with the employees birthday and Martin Luther King's birthday. Jackson told the union representatives Respondent wanted to be able to anticipate the days employees would be off and wanted to achieve consistency with other contracts particularly with its outside employees represented by Local 100 who are off on Martin Luther King's birthday. He also said that Respondent would consider granting off all of Christmas Eve instead of the current half day and eliminating the current half day allowed on New Year's Eve.

Respondent also proposed reducing the number of job classifications and simplifying the language concerning the starting rate and deleting a clause which provided the Company and Union would meet to discuss additional classifications as Respondent considered the control of the number of classifications a management right. The Respondent also proposed a new article specifying subrogation rights for Respondent when employees who had been compensated by Respondent for injuries also received compensation from third parties. Respondent also proposed revisions in the termination clause to conform with termination language in other of its agreements.

The parties next met on February 8, 1989, and Jackson responded to the Union's proposals. He rejected the Union's request for additional vacation time. He rejected the Union's request for pay for funeral leave on Saturdays and Sundays as the employees did not work on these days and incurred no loss of pay. He also told the Union he would make a wage offer at the next meeting. He discussed the Union's

holiday proposal and offered a full day of Christmas in place of the existing half days on Christmas Eve and New Year's Eve. The parties then discussed the Respondent's proposals and the Union offered to agree to certain of them (i.e., to reduce the number of job classifications into two wage rates if the Respondent agreed to permit bidding in the East St. Louis office). The parties agreed that vacation benefits would not be paid during a strike. They also agreed to remove the reference to the August 21, 1957 date in the contract. The parties discussed sick leave abuse and at the Union's request, the Respondent agreed to supply the records at the next meeting and did so.

The parties next met on February 14 and Bingaman and Jackson met privately on several occasions in an attempt to resolve issues. At this meeting Respondent also gave the Union its wage proposal. At the end of the meeting, Bingaman suggested that a Federal mediator be brought in and Jackson agreed.

On February 24 the parties met with the Federal mediator who reviewed the parties positions and met privately with both sides. The mediator suggested a ''fair share'' clause to resolve the issue of union security by allowing employees to pay a maintenance fee to the Union in lieu of a requirement of membership dues. Jackson agreed to review the mediator's suggestions. The parties also agreed to several items and dropped some proposals.

On February 27 the parties met again with the mediator present and Respondent proposed to modify its original union-security proposal in accordance with the mediator's suggestions but this proposal was rejected by the Union. At the end of the meeting Jackson read a written summary of the progress of the negotiations and the parties agreed to a 30-day extension of the contract.

The parties next met on March 7 and discussed unresolved issues. At this meeting Respondent gave the Union its final wage offer. The mediator also met with the parties in several private caucuses.

The parties last meeting was held on March 29. At this meeting Bingaman stated that he desired to negotiate on behalf of the computer center employees. When Jackson asked why this matter was brought up at this time with only 3 days remaining in the contract, Bingaman asked Jackson whether he was refusing to negotiate on behalf of the computer center employees and Jackson replied he would need to talk to legal counsel before responding to this. Bingaman then declared that the meeting was over. Following the caucus the Respondent gave the Union its final offer. The parties have not met since and the Respondent did not implement the final offer.

Analysis

A. *Respondent did not Violate the Act by Refusing to Bargain Concerning the Computer Service Center*

A decision was issued by Administrative Law Judge Holley in September 1988 finding that the computer service employees were an accretion to the bargaining unit represented by the Union and directing Respondent to fulfill its bargaining obligations with respect to these employees. However, as the Respondent contends in its brief, Judge Holley's decision is a recommendation to the Board and does not become final in a case such as the instant one in which exceptions have been filed, until such time as it has been adopted by the Board. At the time of the events in early 1989 giving rise to the instant case, the Board had not yet resolved the appeal and consequently the recommended decision entered by Judge Holley was not a final decision. Accordingly in the absence of a final decision Respondent had no obligation to bargain with respect to the computer service center. In this regard as the Respondent points out in its brief, Section 9(b) of the Act provides that, ''the Board shall decide in each case whether, in order to assure employees the fullest freedom in exercising the rights guaranteed by this subchapter, the unit appropriate for the purposes of bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof'' Further as noted in Respondent's brief Section 102.48 of the Board's Rules and Regulations provides, ''In the event no timely or proper exceptions are filed as herein provided, the findings, conclusions, and recommendations contained in the administrative law judge's decision shall . . . automatically become the decision and order of the Board.'' I further find that the case of *Milwaukee Electric Tool Corp*., 112 NLRB 1135 (1955), cited by Respondent is applicable to this case. While the *Milwaukee Electric Tool* case is not of recent vintage, the General Counsel did not cite any cases to the contrary and I find it supports Respondent's position. In *Milwaukee Electric Tool* the Board held that the Employer had not violated Section 8(a)(5) of the Act by refusing to bargain after exceptions were filed and held that ''until the Board resolved the issue raised by the exceptions . . . the nature of Respondent's obligations under Section 8(a)(5) was in doubt.'' The Board reasoned:

> Had the Board concluded that a contract had in fact been negotiated and should be signed by the Respondent, any negotiations for another contract which the Respondent and the Union might have conducted while the issue was awaiting Board determination, would have been futile.

Clearly in the instant case it would have been futile for the Respondent and the Union to have bargained over the terms and conditions of employment of the computer center employees in early 1989 if the Board had subsequently determined that these employees were not properly included in the bargaining unit.

I further find that the Board's decision in *Howard Plating Industries*, 230 NLRB 178 (1977), is applicable to the instant case. In that case the Regional Director had issued his report and recommendation and objections by the Employer to an election ''in which he recommended overruling Respondent's objections in their entirety and certifying the Union as the exclusive collective-bargaining representative for the appropriate unit.'' Shortly thereafter and prior to the final determination by the Board of timely filed exceptions to the decision of the Regional Director, the Union requested bargaining and the Employer refused to bargain. In finding that the Respondent had not violated the Act, the Board stated (at 179):

> Although an employer's obligation to bargain is established as of the date of an election in which a majority of unit employees vote for union representation, the Board has never held that a simple refusal to initiate collective-bargaining negotiations pending final Board

> resolution of timely filed objections to the election is a per se violation of Section 8(a)(5) and (1) . . . ., and
>
> While awaiting issuance of a Board decision which might have relieved it of any bargaining obligation. Respondent did not violate the Act, absent additional conduct reflective of bad-faith intentions, by refraining from the negotiation of a potentially moot collective bargaining agreement.

I thus conclude the Respondent did not violate section 8(a)(5) of the Act by its alleged refusal to bargain concerning the computer center employees.

B. *Respondent did not Engage in Surface Bargaining in Violation of the Act*

I do not find any evidence in this case that would support a charge of surface bargaining. By all accounts of the events leading up to bargaining and including the bargaining process the bargaining was conducted in a fair and reasonable manner by the Respondent. On December 12, 1988, the Union sent the Respondent its 60-day notice letter and asked for information concerning the employees in the bargaining unit. The Respondent promptly replied to the letter and agreed to meet by its letter of January 9, 1989, wherein it advised it would be seeking some contractual changes. It also promptly forwarded the Union the requested information. The parties by mutual agreement met on February 1, 1989, and exchanged bargaining proposals and met a total of seven times until March 29, 1989, when Union Representative James Bingaman, apparently upset over his perception that the Respondent had refused to bargain concerning the computer center employees, called a halt to the bargaining. During this time the parties reached agreement on some proposals and made modifications on others. At the suggestion of Bingaman the Respondent agreed to the use of a Federal mediator and the parties availed themselves of his services up to and including the last meeting which was called by the mediator.

The principal bases on which I can perceive the General Counsel relies in this case with respect to the allegation of bad-faith surface bargaining is the Respondent's proposal of the elimination of the union-security clause in the then-existing contract as well as Respondent's alleged refusal to bargain over the computer center employees discussed supra. However, the Board has held that the making of a bargaining demand that a union-security clause be eliminated is not a violation of the Act. *Atlas Metal Parts Co*., 660 F.2d 304, 308 (7th Cir. 1981); *Cook Bros. Enterprises*, 288 NLRB 387 (1988).

In this case there was a history of a successful bargaining relationship between the parties, *Chervon Chemical Co*., 261 NLRB 44 (1982). The evidence showed that Respondent met with the Union at reasonable times and places and engaged in sincere efforts to obtain an agreement *Reichhold Chemicals*, 277 NLRB 639 (1985); *Atlanta Hilton & Tower*, 271 NLRB 1600 (1984). Respondent did not unilaterally implement any changes and did not bypass the Union. See *Trinity Valley Iron & Steel*, 127 NLRB 417 (1960), enfd. 290 F.2d 47 (5th Cir. 1961), and *Dinion Coil Co*., 110 NLRB 196 (1954), wherein the Board found the imposition of unilateral changes in wages to be indicia of bad-faith bargaining. See *Moisi & Son Trucking*, 197 NLRB 198 (1972), re: Direct dealing with represented employees.

Finally the Board's rulings in *Rescar, Inc*., 274 NLRB 1 (1985), and in *Reichhold Chemicals*, supra, and its Supplemental Decision in *Reichhold Chemicals*, 288 NLRB 69 (1988), are instructive. In *Rescar* the Board in reliance on *NLRB v. American National Insurance Co*., 343 U.S. 395, 407–408 (1952), stated:

> Moreover, it is not the Board's role to sit in judgment of the substantive terms of bargaining but rather to oversee the process to ascertain that the parties are making a sincere effort to reach agreement.

In *Reichhold* the Board stated,

> The Board will not attempt to evaluate the reasonableness of a party's bargaining proposals as distinguished from bargaining tactics, in determining whether the party has bargained in good faith.

In *Reichhold*, supplemental the Board stated,

> we wish to emphasize that in some cases specific proposals might become relevant in determining whether a party has bargained in bad faith, and,
>
> That we will read proposals does not mean, however, that we will decide that particular proposals are either ''acceptable'' or ''unacceptable'' to a party.

Under the circumstances of this case and mindful of the above rulings indicating the Board's reluctance to find bad-faith bargaining solely on the content of the proposals, I find that the proposals made by Respondent in the instant case were not evidence of bad-faith bargaining on the part of Respondent.

CONCLUSIONS OF LAW

1. Illinois-American Water Company, Southern Division is an employer within the meaning of Section 2(6) and (7) of the Act.

2. Office and Professional Employees International Union, Local 13, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent did not violate Section 8(a)(5) and (1) of the Act by refusing to bargain concerning the terms and conditions of employment of the computer center employees.

4. Respondent did not engage in surface bargaining or otherwise bargain in bad faith in its negotiations with the Union in February and March 1989, and accordingly did not violate Section 8(a)(5) and (1) during the course of these negotiations.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[2]

ORDER

The complaint is dismissed in its entirety.

[2] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Section 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.